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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 003083

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SUBJECT: POSSIBLE NEW WAY FORAWRD ON ELECTION LAW

REF: A. BAGHDAD 3075
1B. BAGHDAD 3066
1C. BAGHDAD 3059
1D. BAGHDAD 3053

Classified By: Political Counselor Yuri Kim for Reasons 1.4 (b, d)

11. (C) SUMMARY: After the previous day's wild and disappointing parliamentary session on the election law, Shia MP Hadi al-Amiri emerged November 24 with a proposal designed to persuade Vice President Hashimi to accept the latest electoral law amendment. This plan, which reportedly enjoys the support of key Iraqis, uses Ministry of Trade displacement statistics to help preserve parliamentary seats that would have been assigned to Sunni-majority districts under the November 8 election law amendment. UNAMI has tentatively agreed that the plan, which would require no further legislative action, is implementable. Hashimi told Amiri, who went to Hashimi to explain his ideas, that he appreciated the proposal and would need time to consider it. According to Hashimi's aide, the Iraqi Vice President has decided to take a deliberate approach and to refrain from saying or doing things that might inflame sectarian conflict; he has reportedly agreed with another key Sunni leader to discourage Sunni demonstrations against the November 23 election law amendment, in particular in Mosul. That said, Hashimi has sent conflicting signals as to whether he truly wants to reach a compromise acceptable to all major parties. The Ambassador will meet with Hashimi tomorrow to help steer him toward the right path. END SUMMARY.

KEEPING IT COOL

12. (C) Following the adoption of a new electoral law amendment by the Council of Representatives (COR) (ref A), PolCouns met the morning of November 24 with Krikor Der-Hagopian, Hashimi's Director General, and strongly urged that the Iraqi VP refrain from any action or statement that could heighten sectarian or political tensions. Der-Hagopian agreed on the danger of sectarianism and reported that Hashimi would not issue an immediate veto and that he had drop a previously scheduled press conference in order to "help things calm down." He added that Hashimi planned to meet soon with members of his electoral coalition (the Iraqi National Movement) on the way forward, as well as with Hadi al-Amiri (Badr Organization), who had brokered a failed compromise deal to have Hashimi withdraw his veto of the November 8 election law amendments (ref B).

13. (C) Der-Hagopian shared that Hashimi was particularly worried that the previous day's amendment would potentially result in the net loss of six COR seats for the Ninewa governorate. To help address this, Hashimi intended to suggest yet another amendment to the election law to increase compensatory seats to 10 percent of total COR seats and to draw minority set-aside seats from the compensatory pool, rather than from seats allocated to the governorates. (Note: This could require Hashimi to issue another veto. End Note.) Der-Hagopian also cited concern about potentially fraudulent

ballots being cast by expatriate voters for governorates that were not their true home province. Der-Hagopian invited Embassy assistance in engaging Shia and Kurdish leaders to help chart a course forward, and commented that Hashimi was upset that MP Saleh al-Mutlaq, who heavily pressured the Iraqi VP to veto the November 8 election law amendments, had left the country after yesterday's fiasco in the COR. PolCouns cautioned against issuing a second veto or seeking another amendment before full, deliberate consideration of non-legislative alternatives.

AMIRI FLOATS ANOTHER DEAL
QAMIRI FLOATS ANOTHER DEAL

¶4. (C) Directly following her meeting with Der-Hagopian, PolCouns met with Amiri (at the latter's request) to discuss ideas for achieving a consensus compromise on elections. Amiri said he recognized the importance of containing any ill will generated by the COR's recent actions and of finding a solution that would prevent another Hashimi veto and would be acceptable to all the main parties. Reflecting considerable background work, Amiri then detailed the outlines of a technical plan requiring no further legislation that, he claimed, would allow Sunni Arabs to maintain the same level of representation in the next parliament that they likely would have garnered under the November 8 election law amendments.

¶5. (C) Conceding that the November 23 election law amendment mandates the use of 2005 (versus 2009) Ministry of Trade population statistics as a baseline for allocating COR seats, Amiri asserted these statistics could be massaged to reflect

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the significant displacement of Iraqis between 2005-2009 in key governorates. He said he had already discussed this with experts at the Ministry of Trade (MoT), who had statistics showing that over 120,000 Kurds had left the three Kurdish-dominated provinces for Ninewa during this four-year period. Accordingly, Amiri recommended taking COR seats from the Kurdish provinces and transferring them to Ninewa. The Kurds would then be "compensated" for this by gaining, in comparison to the November 8 election law amendments, one seat each in Sulaymaniyah and Dahuk to be taken from seats otherwise destined for Baghdad, which was so ethnically mixed that no side would complain. These seats would not be directly transferred between governorates, but would represent a legally acceptable technical decision to draw more compensatory seats from Baghdad.

¶6. (C) Amiri claimed the above arrangement complied with the November 23 amendment adopted by the COR, and that MP Fuad Massoum (PUK bloc leader) and Deputy COR Speaker Arif Tayfour (KDP) were already familiar with the MoT's displacement statistics and understood Amiri's rationale. In addition, al-Amiri had spoken to COR Speaker Samarraie (Iraqi Islamic Party), Deputy Speaker Khalid Attiya (Shia independent), MP Humam Hammoudi (ISCI bloc leader), and the Sadrists, all of whom allegedly gave a green light to the plan. As a next step, Amiri said he would talk with Hashimi in the afternoon and asked PolCouns to bring UNAMI election experts to meet with him afterwards.

NEW TECHNICAL FIX PRESENTED TO UNAMI

¶7. (C) In an evening meeting with PolCouns and UNAMI officials, Amiri reported that his meeting with Hashimi earlier in the day had gone well; however, he had made clear to Hashimi that many MPs and the COR leadership were blind-sided by his veto, and that he should have consulted with political leaders in advance. The most important element of his meeting with Hashimi, Amiri observed, was that the VP and he both explained their earlier public criticisms of each other's actions and agreed that they were both doing

their best in the interest of a fair and workable election law. According to Amiri, Hashimi seemed positively inclined toward his proposed technical plan. When Hashimi asked what would happen if he vetoed the November 23 amendment, Amiri said he told him that the COR would "overwhelmingly reject his veto" and that such an action would "only serve to burn bridges between the Sunni Arabs and all other communities. It would not help Sunnis gain or maintain seats.⁸ According to Amiri, Hashimi reflected on this point and asked for some time to review the proposal with his staff. Amiri assessed that Hashimi was open to influence; if he was surrounded by extremist Sunnis, he would be pulled in that direction. Alternatively, if the &right and reasonable partners⁸ paid attention to him, they could sway him to a reasonable position. He recommended that the Ambassador speak directly to Hashimi and his allies to discourage another veto.

¶8. (C) After listening to Amiri's explanation of his technical proposal, the UNAMI team responded that it would be possible to implement Amiri's plan if they and IHEC could defend the political calculation of moving seats from Baghdad to other governorates. Amiri and the UNAMI team agreed to meet with UNAMI's senior elections expert and with the MoT's statistics team the following day, in order to try to cement a solid position and justification on the proposed technical fix, including the projected allocation of COR seats. UNAMI officials stressed the importance of managing the media carefully and defusing reports that the November 23 election law amendment would cut seats from Ninewa and other Sunni-majority provinces. PolCouns encouraged Amiri to call Hashimi as soon as possible to reassure him that the technical experts were doing everything possible to address his concerns. Amiri immediately called MP Abd al-Karim Samarraie, Hashimi's close confidante, to convey this message.

HE JUST DOESN'T GET IT

¶9. (C) Despite Hashimi's stated commitment to maintaining a calm atmosphere, local and international media reported a November 24 statement from Hashimi's office declaring that the November 23 election law amendment was flawed on a number of levels and was unjust to Iraqis than the amendment he had vetoed. Asked by Poloff for an explanation, Der-Hagopian claimed the statement had been issued out of step with Hashimi's ultimate decision to take a deliberate, non-inflammatory approach. Indeed, Der-Hagopian said, Hashimi had spoken with fellow Sunni MP Osama al-Najaifi and agreed to withhold any demonstrations in Ninewa or other Sunni provinces. He also reiterated that the Vice President had canceled a previously scheduled press conference in order

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to tamp down provocative news reports.

¶10. (C) According to Der-Hagopian, following his meeting with Amiri, Hashimi had decided that he would wait to see IHEC's determination of the distribution of COR seats before making a final decision on whether to veto and/or seek further amendments. These decisions notwithstanding, however, Hashimi had also instructed his legal advisor to prepare two letters, one to the Federal Supreme Court seeking an advisory opinion on whether the November 23 amendment was constitutional, and a second to the COR to assert that the COR had violated its own "rules and norms," as well as Article 138 of the constitution, in adopting the amendment. (Note: Article 138 is interpreted to restrict legislative action in response to a veto to only those issues raised in the veto. End Note.) PolCouns emphatically urged that Hashimi hold off on sending the letters, underscoring that such an action would unnecessarily raise tensions and undermine efforts to reach a consensus solution along the lines of Amiri's plan.

COMMENT

¶11. (C) If Amiri, Abd al-Karim Samarraie, and Der-Hagopian are correct in reporting Hashimi's positive initial response to Amiri's proposal and that the VP is seriously considering it, this indicates a step in the right direction by Hashimi. That said, we continue to see and sense actions that raise questions about the true intentions of this mercurial and maddening politician. At the very least, we will need to stay firmly and directly engaged with all sides in order to put the election law back on track -- whatever Hashimi's aim might be. END COMMENT.

HILL